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MONTANA LEGISLATIVE HISTORY

Chapter 439 19 89

Bill H 650 S _____ Original bill & history ✓ C

H. Committee on Agriculture		S. Committee on Agriculture	
Hearing Date(s) 2-15	✓ C	Hearing Date(s) 3-10	✓ C
	C	3-17	✓ C
	C		C
	C		C
Date Out	C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/28	2ND READING CONCURRED	50	0
3/29	3RD READING CONCURRED	40	9
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	89	3
4/01	3RD READING AMENDMENTS CONCURRED	86	7
4/06	SIGNED BY SPEAKER		
4/07	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 511 EFFECTIVE DATE: 4/12/89		

HB 648 INTRODUCED BY COBB
REVISE PROVISIONS CONCERNING PERSONNEL CLASSIFICATION AND COMPENSATION FOR STATE EMPLOYEES
BY REQUEST OF DEPARTMENT OF ADMINISTRATION

2/10	INTRODUCED		
2/11	REFERRED TO APPROPRIATIONS		
2/13	FISCAL NOTE REQUESTED		
2/18	FISCAL NOTE RECEIVED		
2/22	FISCAL NOTE PRINTED		
3/02	HEARING		
3/09	HEARING		
3/16	HEARING		
3/20	HEARING		
3/22	TABLED IN COMMITTEE		

HB 649 INTRODUCED BY KOEHNKE
INCREASE THE AMOUNT OF A CLAIM THAT CAN BE BROUGHT IN SMALL CLAIMS COURT

2/11	INTRODUCED		
2/13	REFERRED TO LOCAL GOVERNMENT		
2/16	HEARING		
2/17	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	88	7
2/21	3RD READING PASSED	90	9
	TRANSMITTED TO SENATE		
2/28	REFERRED TO JUDICIARY		
3/20	HEARING		
3/20	COMMITTEE REPORT--BILL CONCURRED		
3/21	2ND READING CONCURRED	49	0
3/23	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/29	SIGNED BY SPEAKER		
3/29	SIGNED BY PRESIDENT		
3/30	TRANSMITTED TO GOVERNOR		
4/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 438 EFFECTIVE DATE: 10/01/89		

HB 650 INTRODUCED BY SWYSGOOD
AUTHORIZE IRRIGATION DISTRICT SUBDISTRICTS

2/11	INTRODUCED		
2/13	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
2/14	FISCAL NOTE REQUESTED		

2/15	HEARING		
2/16	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/18	FISCAL NOTE RECEIVED		
2/18	2ND READING PASSED	97	0
2/20	FISCAL NOTE PRINTED		
2/21	3RD READING PASSED	96	0
	TRANSMITTED TO SENATE		
2/28	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
3/10	HEARING		
3/18	COMMITTEE REPORT--BILL CONCURRED		
3/20	2ND READING CONCURRED	48	0
3/22	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/29	SIGNED BY SPEAKER		
3/29	SIGNED BY PRESIDENT		
3/30	TRANSMITTED TO GOVERNOR		
4/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 439 EFFECTIVE DATE: 4/04/89		

HB 651 INTRODUCED BY SPAETH, ET AL.
PROVIDE THAT COMPLIANCE WITH NATIONAL ELECTRICAL SAFETY CODE STANDARD ESTABLISHES DUE CARE IN DEFENSE OF NEGLIGENCE CLAIM ALLEGING A VIOLATION OF THAT STANDARD

2/11	INTRODUCED		
2/13	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/14	HEARING		
2/14	COMMITTEE REPORT--BILL PASSED		
2/18	2ND READING PASSED	70	29
2/21	3RD READING PASSED	63	32
	TRANSMITTED TO SENATE		
2/28	REFERRED TO JUDICIARY		
3/10	HEARING		
3/14	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/15	2ND READING CONCURRED	47	0
3/17	3RD READING CONCURRED	47	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	84	11
4/01	3RD READING AMENDMENTS CONCURRED	86	7
4/06	SIGNED BY SPEAKER		
4/06	SIGNED BY PRESIDENT		
4/06	TRANSMITTED TO GOVERNOR		
4/08	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 471 EFFECTIVE DATE: 10/01/89		

HB 652 INTRODUCED BY BROOKE, ET AL.
REQUIRE LENDER TO PAY INTEREST ON MORTGAGE RESERVE ACCOUNT

2/11	INTRODUCED		
2/13	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/13	FISCAL NOTE REQUESTED		
2/17	HEARING		
2/18	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/18	FISCAL NOTE RECEIVED		

IN THE HOUSE

MARCH 22, 1989 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 650

INTRODUCED BY SWYSGOOD

IN THE HOUSE

FEBRUARY 11, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.
FEBRUARY 13, 1989	FIRST READING.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 96; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.
	FIRST READING.
MARCH 18, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 20, 1989	SECOND READING, CONCURRED IN.
MARCH 22, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

HOUSE BILL NO. 650

INTRODUCED BY Lungquist

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF COMMISSIONERS OF AN IRRIGATION DISTRICT TO CREATE A SUBDISTRICT WITHIN THE DISTRICT; PROVIDING FOR THE CONSTRUCTION OF IRRIGATION IMPROVEMENTS WITHIN A SUBDISTRICT AND FOR THE ISSUANCE OF BONDS TO FINANCE THE IMPROVEMENTS; ALLOWING THE PRIVATE SALE OF BONDS OF IRRIGATION DISTRICTS TO CERTAIN GOVERNMENTAL ENTITIES; CLARIFYING THAT BONDS OF IRRIGATION DISTRICTS ISSUED TO THE STATE OF MONTANA AND ITS AGENCIES AND DEPARTMENTS DO NOT CONSTITUTE INDEBTEDNESS; ALLOWING SPECIAL ASSESSMENTS OR LEVIES ON PROPERTY OWNERS WITHIN A SUBDISTRICT; AND REVISING OTHER PROVISIONS RELATING TO IRRIGATION DISTRICTS TO ALLOW FOR SUBDISTRICTS; AMENDING SECTIONS 85-7-1904, 85-7-1907, 85-7-1908, 85-7-1910, 85-7-1911, 85-7-1921, 85-7-2001, 85-7-2012 THROUGH 85-7-2014, 85-7-2019, 85-7-2021, 85-7-2023, 85-7-2101 THROUGH 85-7-2104, 85-7-2107 THROUGH 85-7-2110, 85-7-2112, AND 85-7-2114 THROUGH 85-7-2116, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Authority to create subdistricts -- petition -- requirements. (1) The board of commissioners of an irrigation district created and organized under Title 85, chapter 7, parts 1 and 15, may establish one or more subdistricts within the irrigation district to provide for and finance the cost of irrigation works, including gravity irrigation systems, gravity measure systems, or sprinkling systems, that would irrigate lands in the subdistrict but not other lands in the district. A subdistrict may be established only upon a petition signed by at least 60%, in number and acreage, of the holders of title or evidence of title to lands to be included within the subdistrict. The petition must be addressed to and filed with the board of commissioners and be accompanied by a map or plat of the proposed subdistrict.

(2) The petition must state:

(a) the name suggested for the proposed subdistrict;

(b) a general description of the land to be included in the proposed subdistrict;

(c) the name of each holder of title or evidence of title to the lands in the proposed subdistrict, as determined according to 85-7-101 and 85-7-102 and, if a holder is a nonresident of the county or counties in which the proposed district lies, the post-office address of the nonresident owner, if known;

(d) the general water source from which the land in the proposed subdistrict will be irrigated and the general

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INTRODUCED BILL
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character of the works, water rights, canals, and other property proposed to be acquired or constructed for irrigation purposes in or for the benefit of the proposed subdistrict; and

(e) a request that the land within the proposed subdistrict be made a subdistrict according to the provisions of [sections 1 through 4].

NEW SECTION. **Section 2. Notice of hearing on petition to create subdistrict.** (1) Upon the filing of a petition to create a subdistrict, the board of commissioners of the irrigation district shall by order fix the time and place for a hearing on the petition and shall direct that notice of the hearing be given.

(2) The notice of the hearing must state:

(a) the name of the proposed subdistrict and its purpose;

(b) the time and place of the hearing;

(c) a general description of the land proposed to be included in the subdistrict;

(d) a general description of the water source; and

(e) the general character of the works, water rights, canals, and other property proposed to be acquired or constructed in or for the benefit of the subdistrict.

(3) The board shall publish notice of the hearing at least once a week for 2 successive weeks in a newspaper

published in each county in which the proposed subdistrict is located. The first publication must occur not less than 15 days before the date of the hearing.

(4) Notice of the hearing must also be mailed not less than 15 days before the date of the hearing to each holder of title or evidence of title to land within the proposed subdistrict. However, a defect in the notice or failure to give mailed notice does not affect the validity of the proceeding for the creation of a subdistrict under [sections 1 through 4].

NEW SECTION. **Section 3. Hearing on petition to create subdistrict.** (1) The board of commissioners shall hear the petition at the time specified in the notice provided under [section 2]. The board may adjourn the hearing for lack of sufficient notice or other good cause. The hearing must be completed within 3 weeks of the initial hearing.

(2) Upon application of the petitioners or any interested person or persons, the board shall allow the petition to be amended and may order that additional notice be given.

(3) At the hearing, any person whose land or property rights may be damaged or benefited by the creation of the subdistrict or by the irrigation works or improvements to be acquired or constructed in or for the benefit of the subdistrict may appear and submit oral or written testimony.

NEW SECTION. **Section 4. Review of petition -- creation of irrigation subdistrict.** (1) After the hearing on the creation of the proposed subdistrict, the board of commissioners shall by resolution create the subdistrict if it finds that:

(a) the petition substantially complies with the provisions of [section 1]; and

(b) it is in the best interests of the holders of title or evidence of title in the subdistrict and the district to establish the subdistrict.

(2) The board shall describe in the resolution the land to be included in the subdistrict. The land does not need to be contiguous but must be located within the district.

(3) In creating the subdistrict proposed by the petition, the board may alter the geographic area of the subdistrict or the scope or type of irrigation improvements to be undertaken in or for the benefit of the subdistrict, subject to the following conditions:

(a) The board may not include within the subdistrict land not identified by the petition as part of the proposed subdistrict unless notice and hearing on the addition are provided according to [sections 2 and 3].

(b) The board may not exclude land from the proposed subdistrict if:

(i) the land can be irrigated from the same general

source and by the same general system of works proposed for other land in the subdistrict; and

(ii) the owner or owners of the land file a written statement with the board requesting that the land be included in the subdistrict.

(c) The board shall exclude land from the proposed subdistrict if it determines that:

(i) the land will not benefit from irrigation obtained from the works of the proposed subdistrict; or

(ii) the land has appurtenant water rights or can be irrigated from sources more feasible than the proposed subdistrict and the owner or owners of the land have not filed a written statement with the board consenting to inclusion of the land in the subdistrict.

(4) For purposes of including or excluding land from a proposed subdistrict, the board of commissioners may subdivide any tract into 40-acre or smaller parcels.

(5) The creation of a subdistrict by the board of commissioners is conclusive on all owners of land within the subdistrict unless, within 30 days after adoption by the board of the resolution establishing the subdistrict, a holder of title or evidence of title to land within the subdistrict petitions the district court of the county in which the greater portion of the proposed subdistrict is located, for review of the creation of the subdistrict. Upon

the timely filing of a petition for review of the creation of the subdistrict, the district court shall conduct a hearing and shall issue a decision in substantially the same manner required for review of a petition for an irrigation district under 85-7-105 through 85-7-108. The district court shall base its decision on whether the requirements of [sections 1 through 3] and subsections 1 through 4 of this section have been met.

(6) A proceeding initiated in the district court for review of the validity of the bond issue or issues to finance the irrigation improvements to be undertaken in the subdistrict may be consolidated with a proceeding initiated under this section. Any indebtedness or liability incurred by the board of commissioners of the district with respect to or on behalf of a subdistrict, including bonds issued by the district, may not constitute a charge or lien on any land in the district except the land within the subdistrict.

NEW SECTION. **Section 5.** **Alteration and determination of subdistrict acreage.** (1) Land may be deleted from or added to the subdistrict in the same manner provided for irrigation districts in 85-7-1801 through 85-7-1810.

(2) Land in a subdistrict that is deleted from an irrigation district remains in the subdistrict unless it is specifically deleted from the subdistrict according to subsection (1).

(3) The taxable area of the land in the subdistrict may be determined in the manner provided in 85-7-1841 through 85-7-1845.

NEW SECTION. **Section 6.** **Dissolution of subdistrict.** A subdistrict created under [section 4] may be dissolved by order of the district court of the county in which the greatest portion of lands of the subdistrict are located, in the manner provided for dissolution of irrigation districts in Title 85, chapter 7, part 10.

NEW SECTION. **Section 7.** **Private sale of bonds to certain governmental entities.** The district may sell bonds issued under Title 85, chapter 7, part 20, to the United States, the state of Montana, or any agency, department, or instrumentality of these governments by negotiation and without public advertisement or solicitation of bids.

Section 8. Section 85-7-1904, MCA, is amended to read:

"85-7-1904. **Acquisition of water and waterworks by board.** (1) The board shall have power and authority to:

(a) appropriate water in the name of the district;

(b) acquire, by purchase, lease, or contract, water and water rights; additional waters and supplies of water; canals, reservoirs, dams, and other works already constructed or in the course of construction; and

(c) acquire by purchase, lease, contract, condemnation, or other legal means:

(i) lands and rights in lands for rights-of-way, for reservoirs, for the storage of needful waters, and for dam sites and necessary appurtenances; and

(ii) ~~such~~ other lands and property as may be necessary for the construction, use, maintenance, repair, improvement, enlargement, and operation of any district or subdistrict system of irrigation works.

(2) The board ~~shall have the privilege, if desired, to~~ may contract with the owner or owners of ~~such~~ canals, reservoirs, dams, and other works so purchased and in the course of construction for the completion thereof.

(3) ~~No~~ A purchase, lease, or contract for purchase of any water, water rights, canals, reservoirs, reservoir sites, dam sites, irrigation works, or other property of any nature or kind or for the making or purchasing of surveys, maps, plans, estimates, and specifications or for the purchase of machinery for pumping plants or for the erection of buildings, aqueducts, and other structures necessarily used in connection with such pumping plants, for a price or rental in excess of $150,000 or 25% of the district's annual operation and maintenance budget, whichever is greater, ~~is final or binding upon the district, and no sum may be paid for such purchase, lease, or contract~~ may not be entered into by the district without the written consent or petition of at least a majority in number and acreage of the holders

of title or evidence of title to the lands within the district or, if the purchase, lease, or contract substantially benefits a subdistrict in the district, by a majority in number and acreage of the holders of title or evidence of title to lands within the subdistrict. Any splitting or division of ~~such~~ a purchase, lease, or contract with the purpose or intention of avoiding or circumventing the provisions of this section ~~shall render such~~ renders the divided or split contract or contracts void."

Section 9. Section 85-7-1907, MCA, is amended to read:

"**85-7-1907. Board power to provide sufficient water.** ~~Said~~ The board may also construct and maintain the necessary dams, reservoirs, and works for the collection and distribution of water for the district or any subdistrict in the district, from one or more sources and from different and additional sources; operate such works; secure, in any of the manners provided in this chapter, additional water supplies from the same or different sources; and do any and every lawful act necessary to be done in order that sufficient water may be furnished for irrigation purposes to all the lands in the district or subdistrict included at the time of its organization or at any time thereafter."

Section 10. Section 85-7-1908, MCA, is amended to read:

"**85-7-1908. Board powers over district property.** (1) The board ~~is hereby authorized and empowered to~~ may take

conveyances or other assurances for all property acquired by it under the provisions of this chapter, in the name of the district, to and for the uses and purposes ~~herein--expressed~~ in this chapter.

(2) The legal title to all property acquired by or for any irrigation district or any subdistrict in the district under the provisions of this chapter shall immediately and by operation of law vest in ~~such~~ that district, as set forth in this chapter. The board of commissioners ~~is--hereby authorized---and--empowered--to~~ may hold, use, maintain, acquire, manage, occupy, and possess ~~said~~ that property, as ~~herein~~ provided in this chapter. Any property so acquired by the district may be conveyed to the United States ~~insofar-as the--same-may-be-needed~~ for the construction, operation, and maintenance of works by the United States for the benefit of the district or a subdistrict in the district under any contract that may be entered into with the United States pursuant to this chapter."

Section 11. Section 85-7-1910, MCA, is amended to read:

"**85-7-1910. Board power to dispose of district property.** (1) The board of commissioners ~~shall-have-the~~ power may, with the written consent of a majority in number and acreage of the owners of the lands in the district or, if the leased property substantially benefits a subdistrict in the district, of a majority in number and acreage of the

owners of lands within the subdistrict, to lease in whole or in part the system of canals and works or water belonging to the district, whenever ~~such~~ the leasing ~~may--be--deemed~~ is considered for the benefit of the district or subdistrict, if the leased property substantially benefits the subdistrict. When ~~said~~ the board contemplates the leasing of the canals or works or water of ~~such~~ a district or subdistrict, it shall so declare the availability of the lease by resolution or order and give notice thereof by ~~publishing--the-same~~ publication in some newspaper published in the county in which the office of ~~such~~ that irrigation district is situated at least 2 calendar weeks prior to the making of any lease. ~~No-such~~ A lease ~~shall~~ may not be made unless a majority in number and acreage of the holders of title or evidence of title to the lands in the district ~~shall~~ or, if the lease substantially benefits a subdistrict, a majority in number and acreage of the holders of title or evidence of title to lands within the subdistrict, file with the board a written consent to make ~~such~~ the lease. ~~Such~~ The lease ~~shall-in-no-way~~ may not interfere with any rights that ~~may~~ have been established by law at the time ~~such~~ the lease is made, nor ~~shall-such~~ may the lease operate ~~so-as~~ to deprive any owner or owners of land in ~~such~~ the district of the use of water from such works upon ~~such~~ the lands. The board of commissioners shall require a good and sufficient

bond to secure the faithful performance of the lease by the lessee.

(2) In addition to all other powers ~~heretofore~~ granted any irrigation district existing under the laws of Montana, for the purpose of securing financial aid in any form from the department of natural resources and conservation, an irrigation district may convey, assign, transfer, and set over to the department all or any part of its property, including all water rights, rights-of-way, and easements for reservoirs, reservoir sites, canals, ditches, laterals, and headgates, as may be required by the department as a condition to furnishing ~~such~~ financial aid or assistance.

(3) If ~~any~~ an irrigation district has ceased operation, ~~such~~ the district prior to its dissolution ~~shall--be authorized-and-empowered-to~~ may convey, assign, transfer, and set over to any person or association of persons all or any part of its property ~~enumerated~~ described in subsection (2), for the purpose of irrigating and reclaiming any or all other land which can be served and irrigated ~~therefrom~~."

Section 12. Section 85-7-1911, MCA, is amended to read:

"85-7-1911. Apportionment of water by board. (1) The board of commissioners shall apportion the water for irrigation among the lands in the district or a subdistrict in the district in a just and equitable manner, and the maximum amount apportioned to any land shall be the amount

that can be beneficially used on ~~said~~ the land~~,~~. ~~and--such~~ The amount of water ~~shall-become-and-shall-be~~ is appurtenant to the land and inseparable from ~~the-same~~ it but subject to reduction as ~~hereinafter~~ provided in this chapter.

(2) In the event of a shortage of water, the amount of water delivered to each particular tract or piece of land shall be reduced proportionately.

(3) All surplus water belonging to the district may be sold or disposed of by the board for the benefit of the district or for the benefit of a subdistrict if the surplus water is derived from water that attaches to the substantial benefit of the subdistrict.

(4) All water, the right to the use of which is acquired by the district under any contract with the United States, shall be distributed and apportioned by the district in accordance with the acts of congress, the rules and regulations of the secretary of the interior, and the provisions of ~~said~~ the contract ~~in-relation-thereto~~."

Section 13. Section 85-7-1921, MCA, is amended to read:

"85-7-1921. Distribution system defined. The words "distribution system", as used in 85-7-1922 through 85-7-1925, ~~shall--denote~~ denotes the entire works and property of all irrigation districts, including main ditches and canals, laterals, bilaterals, headgates, flumes, spillways, boxes, and all other appliances and means by

which the waters of any irrigation district, including a subdistrict in the district, are or shall be apportioned or distributed for use."

Section 14. Section 85-7-2001, MCA, is amended to read:

"**85-7-2001. Limitations on debt-incurring power.** (1) The board of commissioners or other officers of the district may not incur any debt or liability, either by issuing bonds or otherwise, except as provided in this chapter.

(2) ~~No~~ An irrigation district may not become indebted, in any manner or for any purpose in any one year, in an amount exceeding 18.75% of the assessed valuation of the district, except as provided in subsection ~~(2)~~ (4).

(3) An irrigation district may not incur indebtedness, in any manner or for any purpose in any one year, on behalf of any subdistrict in the district in an amount exceeding 18.75% of the assessed valuation of the subdistrict, except as provided in subsection (4).

~~(2)~~(4) (a) For the purpose of organization; for any of the immediate purposes of this chapter; to make or purchase surveys, plans, and specifications; for stream gauging and gathering data; or to make any repairs occasioned by any calamity or other unforeseen contingency, the board of commissioners may, in any one year, incur the indebtedness of as many dollars as there are acres in the district and may ~~cause~~ issue warrants of the district ~~to issue therefor~~.

(b) For the purpose of organization, for any of the immediate purposes of this chapter, or to meet the expenses occasioned by any calamity or other unforeseen contingency, the board of commissioners may, in any one year, incur (in addition to the 18.75% limitation of subsection (1)) an additional indebtedness not exceeding 12.5% of the assessed valuation of the district and may ~~cause~~ issue warrants of the district ~~to issue~~ therefor.

(c) The limitation of subsection (1) does not apply to warrants issued for unpaid interest on the valid bonds of any irrigation district.

(d) The limitation of subsection (1) does not apply to ~~any~~ bonds or obligations issued to the state of Montana, the United States, or any department, agency, or instrumentality of these governments if the bonds or obligations are issued:

(i) pursuant to a loan program specifically authorized by the legislature; or

(ii) to finance in whole or in part a project authorized by the legislature.

(e) The limitation of subsection (1) does not apply to any bonds issued under this chapter pursuant to a provision ~~which~~ that expressly supersedes the limitation.

~~(3)~~(5) Any debt or liability incurred in excess of the limitations provided by the irrigation district laws is void.

~~(4)--The--limitation-of-subsection-(1)-does-not-apply-to state-or-federal-bonds-used-for-a-project-authorized-by--the legislature.~~"

Section 15. Section 85-7-2012, MCA, is amended to read:

"**85-7-2012. Purposes for which bonds may be issued.** The board of commissioners of a district established under the provisions of Title 85, chapter 7, part 1, may authorize and issue negotiable fully registered bonds or negotiable coupon bonds ~~for~~ of the district for the purpose of providing the necessary funds for:

(1) constructing the necessary irrigation canals and works, including drainage works, and constructing works for the generation and distribution of electricity within the district and for acquiring the property and rights necessary therefor;

(2) acquiring, by purchase or otherwise, waters, water rights, canals, reservoirs, reservoir sites, irrigation works, drainage works, and works for the generation and distribution of electricity, whether ~~such~~ the works are constructed or partially constructed;

(3) meeting the ~~expense~~ expenses incurred incident to the construction or acquisition of ~~such~~ the works and property, including administrative, engineering, and legal expenses;

(4) assuming, as principal or guarantor, indebtedness

to the United States on account of district lands;

(5) providing a sufficient amount of money to pay the interest on all ~~negotiable-coupon~~ bonds of the district for a period not exceeding 5 years;

(6) redeeming or paying all or any portion of the existing indebtedness of the district, evidenced by outstanding bonds; delinquent interest coupons, overdue claims for interest, and accrued interest; or warrants, together with all delinquent and accrued interest, whether ~~such~~ the indebtedness has or may ~~hereafter~~ become payable at the option of the district, by consent of the bondholders, or by any other lawful means; ~~or~~

(7) establishing a reserve for the payment of principal and interest on bonds of the district in an amount determined by the board to be reasonably required to market the bonds; or

~~(7)~~(8) otherwise carrying out the provisions of the irrigation district laws."

Section 16. Section 85-7-2013, MCA, is amended to read:

"**85-7-2013. Petition requirements.** (1) ~~No-bonds~~ Bonds provided for in 85-7-2012 through 85-7-2015 may not be authorized or issued by or on behalf of any irrigation district organized ~~hereunder~~ under this chapter or by an irrigation district on behalf of a subdistrict located in the district and ~~no~~ a contract may not be made with the

United States as provided in 85-7-1906 except upon a petition signed by:

(a) at least 60%, in number and acreage, of the holders of title or evidence of title to lands included within the district or, if the bonds are issued on behalf of or if the contract relates to a subdistrict, at least 60% in number and acreage of the holders of title or evidence of title to lands within the subdistrict; or ~~by~~

(b) at least 75%, in number and acreage, of the holders of title or evidence of title to ~~such~~ the lands who are residents of the county or counties in which lands of the district are situated or, if the bonds are issued on behalf of or if the contract relates to a subdistrict, at least 75% in number and acreage of the holders of title or evidence of title to the lands who are residents of the county or counties in which lands of the subdistrict are situated.

(2) The petition ~~shall~~ must be addressed to the board of commissioners, set forth the aggregate amount of bonds to be issued and the purpose or purposes ~~thereof~~ of the bonds, have attached ~~thereto~~ to it an affidavit verifying the signatures to the petition, and be filed with the secretary of the board ~~of commissioners~~. When bonds are issued for the sole purpose of redeeming or paying the existing and outstanding bonds or warrants, or both, including delinquent and accrued interest, of ~~such~~ the district, ~~such~~ the bonds

may be authorized and issued in the manner provided for by 85-7-2019."

Section 17. Section 85-7-2014, MCA, is amended to read:

"**85-7-2014. Procedure after petition filed.** Upon the filing of the petition, the board of commissioners shall, by appropriate order or resolution, authorize and direct the issuance of the bonds of the district to the amount and for the purpose or purposes specified in the petition; fix the numbers, denominations, and maturity or maturities of the bonds; specify the rate of interest ~~thereon~~ on the bonds and whether payable annually or semiannually; designate the place and method of payment of the bonds and the interest ~~coupons~~ on the bonds, within or ~~without~~ outside the state of Montana; prescribe the form of the bonds ~~and--interest coupons--to-be-attached-thereto~~; and provide for the levy of a special tax or assessment as provided in this chapter on all the lands in the district or for a levy on a subdistrict if the bonds are issued on behalf of the subdistrict, for the irrigation and benefit of which the district or subdistrict was organized and the bonds are issued or the contract is to be made, sufficient in amount to pay the interest on and principal of the bonds when due and all amounts to be paid to the United States under any contract between the district and the United States~~,--accompanying~~ for which bonds of the district have not been deposited with the

United States as provided in 85-7-1906."

Section 18. Section 85-7-2019, MCA, is amended to read:

"**85-7-2019. Refunding bonds.** (1) Any irrigation district may issue refunding bonds.

(2) An irrigation district may issue refunding bonds for the purpose of redeeming or paying the indebtedness or any portion ~~thereof~~ of the indebtedness of the district, whether represented by existing and outstanding bonds, interest coupons ~~thereof~~, or warrants, including accrued and unpaid interest on the bonds, coupons, and warrants, and whether ~~such~~ the indebtedness is due or not due or has or may become payable at the option of the district, by consent of the bondholders or warrant holders, or by any other legal means and whether ~~such~~ the indebtedness is now existing or may be created, and funds in the treasury of the district are not available for the payment of the ~~same~~ indebtedness. The refunding bonds may be issued in one or more series. The petition for the refunding bonds~~,~~ must be signed as required by law by at least 60% in number and acreage of the holders of title or evidence of title to the lands included within the district, or by at least 60% in number and acreage of the holders of title or evidence of title to the lands within a subdistrict if the bonds to be refunded were issued by the district on behalf of the subdistrict, and addressed to the board of directors or commissioners of the district~~.~~

The petition may contain the following specifications, in addition to the matters ~~now~~ otherwise required by law:

(a) how many series of bonds shall be issued; and

(b) the terms, conditions, and liens of the bonds and the terms and conditions upon which each of the series of bonds shall be exchanged for outstanding bonds of the district if the ~~same~~ bonds are to be exchanged and not sold.

(3) The specifications provided for in subsection (2), when set forth in the petition, are controlling upon the board of directors or commissioners. The petitioners shall in the specifications set forth the contract of exchange to be made, with particularity. The contract may include any term, requirement, grant, transfer of property or rights, covenant, or condition considered by the petitioners to be in the best interest of the district or of the subdistrict if the bonds that are the subject of the contract were issued by the district on behalf of the subdistrict. The petition shall state that the board of directors or commissioners of the district may authorize and direct the issuance of bonds according to the specifications of the petition, make any such contract, and bind the irrigation district under the contract."

Section 19. Section 85-7-2021, MCA, is amended to read:

"**85-7-2021. Liens of bonds.** (1) All bonds issued ~~hereunder~~ under this chapter and all amounts to be paid to

the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in 85-7-1906, shall be a lien upon all the lands originally or at any time included in the district, or upon lands in a subdistrict if the bonds are issued on behalf of the subdistrict, for the irrigation and benefit of which ~~said~~ the irrigation district or subdistrict was organized and ~~said~~ the bonds were issued and for the benefit of which such contract between the district and the United States was made, except upon ~~such~~ any lands as may at any time be included in ~~such~~ the district or subdistrict on account of the exchange or substitution of water under the provisions of 85-7-1912~~, if any there be~~; and all such lands ~~shall be~~ are subject to a special tax or assessment for the payment of the interest on and principal of ~~said~~ the bonds. All amounts to be paid to the United States under any ~~such~~ contract between the district and the United States and ~~said~~ the special tax or assessment ~~shall constitute~~ constitute a first and prior lien on the land against which levied to the same extent and with like force and effect as taxes levied for state and county purposes.

(2) All liens ~~herein~~ created under this section remain upon the lands ~~for a period of 8 years after the date of maturity of the obligation. Thereafter, the lands and the titles thereto shall be free from any such liens~~ until the obligations of the district for the bonds are discharged, as provided by law or by the resolution of the board of commissioners authorizing their issuance."

Section 20. Section 85-7-2023, MCA, is amended to read:

"85-7-2023. Notice of sale of bonds. ~~Before~~ Except as provided in [section 7], before making any sale the board shall, by resolution at a meeting, declare its intention to sell a specified amount of the bonds and the day and hour and place of ~~such~~ sale. The board shall cause ~~such~~ the resolution to be entered in the minutes and notice of the sale to be given by publication ~~thereof~~ at least once a week for 3 successive calendar weeks in ~~some~~ a newspaper in the county where the office of the board of commissioners is located, and the notice may be published in any other newspaper ~~within or without the state~~ at ~~its~~ the board's discretion. The notice shall state that sealed proposals will be received by the board at its office, for the purchase of bonds, until the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of the bonds or any portion or portions thereof to the highest responsible bidder or bidders. ~~Said~~ The board may reject any or all bids. In case no award is made, the board ~~thereafter~~ may either readvertise ~~said~~ the bonds or any part ~~thereof~~ of the bonds

for sale or sell the ~~same~~ bonds or any part ~~thereof~~ of the bonds at private sale. Coupons evidencing unearned interest ~~shall~~ must be detached and canceled."

Section 21. Section 85-7-2101, MCA, is amended to read:

"**85-7-2101. Tax or assessment to pay bonds and interest.** (1) All bonds and the interest thereon issued ~~hereunder~~ under this chapter and all payments due or to become due to the United States under any contract between the district and the United States~~,~~ ~~accompanying~~ for which the bonds of the district have not been deposited with the United States as provided in 85-7-1906~~,~~ ~~shall~~ must be paid by revenue derived from a special tax or assessment levied upon all the lands included in the district, or upon all lands in a subdistrict of the district if the bonds are issued by the district on behalf of the subdistrict, except upon those lands that have been included in the district or subdistrict on account of the exchange or substitution of water under the provisions of 85-7-1912~~,~~ ~~if there are any~~. All lands in the district, or in a subdistrict if the bonds are issued on behalf of the subdistrict, at the time the bonds are issued and all lands subsequently included which are ~~so~~ chargeable under the provisions of this chapter ~~shall be and~~ remain liable to be taxed and assessed for the payment of the bonds and interest and all payments due or to become due to the United States under any contract between

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the district and the United States~~,~~ ~~accompanying~~ for which bonds of the district have not been deposited with the United States as provided in 85-7-1906.

(2) The board of commissioners of the district, in the order or resolution authorizing and directing the issuance of bonds of the district mentioned in 85-7-2014, shall provide for the annual levy and collection of a special tax or assessment upon all the lands included in the district, or in a subdistrict if the bonds are to be issued on behalf of the subdistrict, and subject to taxation and assessment, sufficient in amount to meet the interest on the bonds promptly when and as the ~~same~~ interest accrues and to discharge the principal ~~thereof~~ of the bonds at their maturity or respective maturities and to meet all payments due or to become due to the United States under any contract between the district and the United States~~,~~ ~~accompanying~~ for which bonds of the district have not been deposited with the United States as provided in 85-7-1906, at the times ~~such~~ the payments by ~~such~~ the contract become due and payable."

Section 22. Section 85-7-2102, MCA, is amended to read:

"**85-7-2102. Added lands to pay proportional share of bonded indebtedness.** (1) Where a district or subdistrict is extended after the construction of works of irrigation, including drainage works, to include other irrigable lands, ~~such~~ the included lands ~~shall be~~ are chargeable with ~~such~~

the proportion of the bonded indebtedness incurred or authorized to be incurred by any district or subdistrict and ~~such~~ the proportion of the indebtedness incurred under any contract between the district and the United States~~,~~ ~~accompanying~~ for which bonds of the district have not been deposited with the United States as provided in 85-7-1906, as the district court shall order, as provided in 85-7-1808 through 85-7-1811 and 85-7-1841 through 85-7-1845. The board of commissioners of the district shall provide for the levy of a special tax or assessment against ~~such~~ the included lands on account of ~~said~~ the bonds and the interest ~~thereon~~ on the bonds and on account of any payments under any contracts between the district and the United States~~,~~ ~~accompanying~~ for which bonds of the district have not been deposited with the United States~~,~~ as provided in 85-7-1906.

(2) ~~Said~~ The special tax or assessment shall be levied and collected as and in the manner as the special tax assessment against the lands of the original district or subdistrict on account of the payments under any contract between the district and the United States~~,~~ ~~accompanying~~ for which bonds of the district have not been deposited with the United States as provided in 85-7-1906, and on account of which ~~said~~ the bonds and the interest ~~thereon~~ on the bonds is provided for, levied, and collected. Upon the extending of any ~~such~~ district or subdistrict, the total of ~~said~~ the

bond indebtedness or indebtedness due to the United States shall be reapportioned, spread, and equalized upon and over the entire area ~~thereof~~, as provided in 85-7-2021."

Section 23. Section 85-7-2103, MCA, is amended to read:

"**85-7-2103. All irrigable lands chargeable alike.** (1) All irrigable lands in each irrigation district and all lands in each subdistrict of the district, except ~~such~~ those lands that are included within the district because of the exchange or substitution of water under the provisions of 85-7-1912, shall pay at the same rate for all purposes for which the lands are charged, except as otherwise provided by law. There may be an administrative charge of $5 to $25 against each separately owned tract of land regardless of its size, as provided in 85-7-2104.

(2) Whenever water used for the irrigation of any lands within an irrigation district or subdistrict is obtained by pumping to different elevations, the cost of maintenance, operation, and pumping to each separate elevation shall be apportioned and levied upon the lands lying under the ditch or ditches running from that particular elevation, in ~~such~~ a manner as may be determined fair and equitable by the board of commissioners after considering the facts in each case. This apportionment ~~shall~~ must be made by the board of commissioners and included each year in the assessment provided for by 85-7-2104. The amount of the assessment for

maintenance, operation, and pumping of water to each separate elevation, whenever there are different elevations, ~~shall~~ must be determined by the board ~~of--commissioners~~ in ~~such~~ a manner and upon ~~such~~ notice to the persons interested in the district or subdistrict as the board in its rules may provide.

(3) Whenever a contract has been made with the United States, the lands within the district or of a subdistrict if the contract substantially benefits the subdistrict, whether originally included or later annexed to the district or subdistrict, shall pay in accordance with the federal reclamation laws and the public notices, orders, and regulations issued ~~thereunder~~ under the reclamation laws and in compliance with any contracts made by the United States with the owners of the lands and in compliance with the contract between the districts and the United States.

(4) Whenever a contract has been made with the state of Montana, the lands within the district or of a subdistrict if the contract substantially benefits the subdistrict, whether originally included or later annexed to the district or subdistrict, shall pay in accordance with state laws and public notices and rules issued ~~thereunder~~ under the laws and in compliance with any contract made by the state with the owners of the lands and in compliance with the contract between the district and the state.

(5) Whenever the works necessary for the completed project are constructed progressively over a period of years and whenever a portion of the lands within the district are or can be irrigated 1 year or more before the completion of the entire project, those lands ~~so~~ irrigated or that can be ~~so~~ irrigated through the built portion of the project shall pay for the cost of operating that portion of the project serving them with irrigation water and also shall pay ~~such~~ the portion of the interest charges as its irrigable area bears to the irrigable area of the entire project.

(6) Whenever lands have appurtenant thereto a partial water right or partial rights in a system of irrigation other than that of the district or subdistrict, the amounts payable ~~shall~~ must be equitably apportioned.

(7) Whenever the owners of a portion of the lands within an irrigation district choose to install a gravity system to irrigate those lands, the cost of constructing the gravity system ~~shall~~ must be apportioned among and levied upon the lands irrigated by the gravity system in a manner determined to be equitable by the board. The levy ~~shall~~ must be included each year in the assessment charged under 85-7-2104."

Section 24. Section 85-7-2104, MCA, is amended to read:

"85-7-2104. Annual tax levy -- apportionment when tracts divided. (1) (a) On or before the second Monday in

July each year, the board of commissioners of each irrigation district organized under parts 1 and 15 shall ascertain:

(i) the total amount required to be raised in that year for the general administrative expenses of the district, including the cost of maintenance and repairs; and

(ii) the total amount to be raised that year for interest on and principal of the outstanding bonded or other indebtedness of the district~~,--including-any-indebtedness incurred-under-any-contract-between--the--district--and--the United--States,-accompanying~~ for which bonds of the district have not been deposited with the United States as provided in 85-7-1906.

(b) The board shall levy against each 40-acre tract or fractional lot, as designated by ~~the~~ United States ~~public~~ government survey, or platted lot, if land is subdivided in lots and blocks (or where land is owned in less than 40-acre tracts or in less than the platted lot, ~~then~~ against each ~~such~~ tract) of land in the district, that portion of the respective total amounts ~~so~~ to be raised which the total irrigable area of any ~~such~~ tract or lot bears to the total irrigable area of the lands in the district, so that each acre of irrigable land in the district ~~shall~~ must be assessed and required to pay the same amount as every other acre of irrigable land therein, unless otherwise

specifically provided by the board. The board ~~of commissioners~~ may ~~make--a~~ charge ~~of~~ $5 to $25 against each separately owned tract of land, regardless of its size.

(c) Indebtedness under subsection (1) includes debt incurred under any contract between the district and the United States but excludes any indebtedness incurred by the district on behalf of a subdistrict.

(2) (a) On or before the second Monday in July each year, the board of commissioners of each irrigation district organized under parts 1 and 15 for which a subdistrict has been created pursuant to [section 4] shall determine the total amount to be raised that year for interest and principal payments on the outstanding bonded or other indebtedness of the district incurred on behalf of the subdistrict.

(b) The board shall levy against each 40-acre tract or fractional lot, as designated by United States government survey, or platted lot if land is subdivided in lots and blocks (or where land is owned in less than 40-acre tracts or in less than the platted lot, against each tract) in the subdistrict, the portion of the total amount to be raised apportioned according to the ratio of the total irrigable area of the tract or lot to the total irrigable area of the lands in the subdistrict, so that each acre of irrigable land in the subdistrict is assessed and required to pay the

same amount as every other acre of irrigable land in the subdistrict, unless otherwise specifically provided by the board. The board may charge $5 to $25 against each separately owned tract or lot of land, regardless of its size.

(3) In the event that the ownership of any ~~such~~ 40-acre tract or other subdivision of land in the district ~~shall be~~ or subdistrict is divided after a special tax or assessment against the ~~same~~ land has been levied, each ~~or either~~ of the owners of ~~such~~ a tract or ~~subdivisions shall be~~ subdivision is entitled to have ~~such~~ the special tax or assessment equitably apportioned to and against ~~said~~ the divisions of ~~such~~ the tract or ~~subdivisions~~ subdivision, so that each owner ~~shall be~~ is enabled to pay ~~such~~ a special tax or assessment against his portion of ~~such~~ the tract or subdivision and have the ~~same~~ land discharged from the lien ~~thereof~~. In no event shall the charge against any separately owned tract of land be less than $5."

Section 25. Section 85-7-2107, MCA, is amended to read:

"85-7-2107. Procedure for the determination of irrigable area. (1) For the purpose of determining the number of acres of irrigable lands in each 40-acre tract or fractional lot as designated by the United States ~~public~~ government survey or platted lot, if land is subdivided in lots and blocks (or whenever land is owned in less than

40-acre tracts or in less than the platted lot, ~~then~~ in each ~~such~~ tract) of land in the district or subdistrict, the board of commissioners of any irrigation district established under part 1, whenever considered advisable and at any time except as otherwise provided, may cause a careful topographical survey and map of the lands to be made, as well as a specific examination of the character of the soil of each tract. Upon completion of the survey and maps and examination, the board shall give notice that at a meeting of the board, to be held at the office of the board on a day to be fixed in the notice, the board will determine the irrigable area of each tract of land in the district or subdistrict and that it will hear and consider any objection on the part of any landowner in the district, or in a subdistrict if only the irrigable area of the subdistrict is being determined, to the determination and to adjustment of the irrigable area of the district or subdistrict or of any lands within any tract or subdivision ~~thereof~~ of the district or subdistrict. It is not necessary to describe the tracts in the notice. The notice ~~shall~~ must be given by publication once a week for 2 successive calendar weeks in a newspaper of general circulation in the county where the office of the board is located, and whenever lands of any irrigation district or subdistrict lie in more than one county, the notice ~~shall~~ must also be published in a

newspaper or newspapers of general circulation in each county. The last publication of the notice ~~shall~~ must be at least 5 days prior to the date fixed for the meeting.

(2) At the meeting, the board shall ~~proceed--to~~ determine and fix the number of acres in each tract or subdivision irrigable from the works or proposed works of the district or subdistrict and shall hear all persons interested who may appear and shall continue in session from day to day (exclusive of Sundays and legal holidays) as long as may be necessary and until the determination of irrigable area is completed. The board shall hear and receive all evidence offered, including maps and surveys caused to be prepared by it as well as maps and surveys prepared by any owner of lands. Upon ~~such~~ determination, the irrigable area ~~so~~ fixed ~~shall-become-and-thereafter-be~~ is the acreage upon which any special tax or assessment ~~shall~~ must be levied, and each irrigable acre shall pay at the same rate as every other acre of irrigable land in the district or subdistrict, except as otherwise provided by law."

Section 26. Section 85-7-2108, MCA, is amended to read:

"85-7-2108. Taxes to be lien upon land. Any special tax or assessment levied for any purpose is a lien upon the entire 40-acre tract or fractional lot as designated by ~~the~~ United States ~~public~~ government survey or platted lot, if land is subdivided in lots and blocks (or whenever land is

owned in less than 40-acre tracts or in less than the platted lot, ~~then~~ against each such tract) of land in the district or subdistrict of which the irrigable area forms a part, and the lien shall attach to the entire tract as of January 1 in the year in which the special tax or assessment is levied."

Section 27. Section 85-7-2109, MCA, is amended to read:

"85-7-2109. List of all lands in district or subdistrict **to be prepared.** Upon completing the determination, the board shall fix, by appropriate resolution or order, the total acreage and the irrigable acreage of each tract or subdivision and shall ~~cause--to--be prepared~~ prepare a list of all lands in the district~~,--which~~ or subdistrict. The list ~~shall~~ must contain an accurate description of each 40-acre tract or fractional lot as designated by ~~the~~ United States ~~public~~ government survey or platted lot, if land is subdivided in lots and blocks (or whenever land is owned in less than 40-acre tracts or in less than the platted lot, then of each such tract) of land in the district or subdistrict, the total acreage and the number of irrigable acres ~~therein~~ as ~~so~~ fixed and determined, and the name of the owner or holder of title or evidence of title ~~thereof~~, ascertained as provided in 85-7-101 and 85-7-102. This list, when completed and adopted, ~~shall~~ must be filed in the office of the board ~~of~~

~~commissioners~~ and shall remain there for public inspection. A certified copy of the resolution and list ~~shall~~ must be filed with the county clerk and recorder of each county in which any portion of the lands in the district is situated. The lands not situated in the county in which ~~such~~ the copy is filed ~~shall~~ must be omitted from the copy."

Section 28. Section 85-7-2110, MCA, is amended to read:

"85-7-2110. Nonirrigable lands not to be taxed. ~~No~~ A special tax or assessment may not be levied against any 40-acre tract or fractional lot as designated by ~~the~~ United States public survey or platted lot, if land is subdivided in lots and blocks (or whenever lands are owned in less than 40-acre tracts or in less than the platted lot, ~~then~~ against each such tract) found by the board of commissioners to contain no irrigable land, ~~nor may any~~ A lien created after the order of determination may not attach to any ~~such~~ nonirrigable tract, nor may the owner or owners of any nonirrigable tract or tracts have any vote or votes in any proceeding or election under the provisions of Chapter 146 of the Laws of 1909 or any amendment thereof or act supplementary thereto, after the making of ~~such~~ the order, unless their land or a portion ~~thereof~~ of their land is found by the board to contain an area irrigable from the works or proposed works of the district or subdistrict."

Section 29. Section 85-7-2112, MCA, is amended to read:

"85-7-2112. Confirmation of board actions by district court. (1) Within 60 days after the resolution adopting the list, the board of commissioners may petition the district court for confirmation of ~~their~~ its acts in determining the irrigable area and in refunding or canceling any taxes or assessments. The majority in number and acreage of the holders of title or evidence of title to lands in the district or the majority in number and acreage of the holders of title or evidence of title in the subdistrict if only the irrigable area of the subdistrict is to be reviewed, ~~ascertained~~ determined as provided in 85-7-101 and 85-7-102, may likewise within ~~such~~ the 60-day period petition the district court for review of the actions of the board ~~of--commissioners~~. However, one of these proceedings, if prosecuted to determination, is exclusive of the other. ~~Upon-such-proceeding,-the~~ The court may order any assessment of taxes upon any land or lands to be reduced or raised according to the irrigable area as found by the court or taxes previously levied upon any area shown to be excessive to be refunded or canceled.

(2) The provisions of 85-7-1808 through 85-7-1810 regarding the procedure as well as the right and time to appeal apply to any proceeding instituted pursuant to this section, provided nothing in this section affects or impairs the lien of any bonds issued by the district. If

confirmation proceedings are held and a certified copy of the order of confirmation is filed with the county clerk and recorder of the county in which any portion of the lands is situated, it is not necessary to file in the office the certified copy of the resolution and order of the board or of the list provided for in this section."

Section 30. Section 85-7-2114, MCA, is amended to read:

"**85-7-2114. Apportionment of costs when bonds issued.** (1) Whenever a petition for the issuance of bonds of any irrigation district established under the provisions of part 1 has been filed as provided in 85-7-2012 through 85-7-2015, the board of commissioners of the district shall examine or cause to be examined each 40-acre tract or fractional lot as designated by the United States public survey or platted lot, if land is subdivided in lots and blocks (or whenever land is owned in less than 40-acre tracts or in less than the platted lot, then each such tract) of land in the district or of land in a subdistrict if the bonds are to be issued on behalf of the subdistrict, and cause a careful topographical survey and map to be made in the manner provided for in 85-7-2107. Upon such the examination, the board shall determine the number of irrigable acres in each such tract and shall apportion and distribute the cost of the works or improvements for which the bonds are to be issued over the tracts within the district or subdistrict

according to the irrigable area in each of the tracts or subdivisions, so that each such irrigable acre is required to bear the same burden of such costs as each other irrigable acre in the district or subdistrict, except as otherwise provided by law. The special tax or assessment levied to meet the principal of and interest on the bonds so authorized is a lien upon the entire tract of which such the irrigable area forms a part or portion as of January 1 of the year in which the special tax or assessment is levied, and the number of irrigable acres in each such tract as so determined may not be diminished but may be increased during the term for which any such the bonds are issued or until the bonds are liquidated in full.

(2) Whenever a proceeding for the determination, in whole or in part, of the irrigable area of the lands in the district or subdistrict has already been had or a topographical survey or maps thereof prepared or a court confirmation of prior proceedings had, in part or in full, the board may, in its discretion, adopt all or such portions of the prior proceedings and need not cause an additional survey or maps or examination of any of such the tracts to be made or redetermine the irrigable area of any such tract.

(3) The board shall make such the determination after the hearing and shall fix the total acreage and the irrigable acreage and shall cause prepare a list of such the

irrigable area ~~to--be--made--and-filed~~ for filing, and the proceedings of the board in connection with ~~such~~ the determination, including the hearing and notice of the hearing and order or resolution fixing the irrigable area and the preparation and filing of the list, shall conform to the requirements set forth in 85-7-2107 through 85-7-2113. At the hearing, the board shall also determine the amount and rate per acre necessary to be levied against each irrigable acre in the district to meet the interest on and principal of the authorized bond issue~~, and any~~ The tax levied ~~for such purposes~~ is a lien upon the entire tract of which the irrigable area forms a part. If any landowner in the district or subdistrict appears before the board at that time and pays in cash the amount fixed against his land as its proportion of the amount found necessary for the purposes for which the bonds were authorized and are to be issued, his land ~~shall~~ must be excluded from the lien of the bond issue and the amount of bonds intended to be issued shall be reduced by the amount of ~~such~~ the payment. Any person interested who fails to appear before the board at the meeting may not thereafter ~~be permitted to~~ contest the proceedings of the board or any part thereof, except upon special application to the court in the proceedings for the confirmation of the bonds and a showing of reasonable excuse for failure to appear before the board ~~of commissioners~~."

Section 31. Section 85-7-2115, MCA, is amended to read:

"**85-7-2115. Objection by landowner.** In case any ~~such~~ landowner makes objection to the proceedings of the board in determining the irrigable area in his own or any other tract of land or the amount or rate per acre of the special tax and assessment to be levied against each irrigable acre in the district or subdistrict for the purposes of the proposed bond issue and the objection is overruled by the board, the objection without further proceedings ~~shall~~ must be regarded as appealed to the district court and shall, with the other proceedings of the board at the meeting, be heard at the proceedings to confirm the bonds, as provided in 85-7-2016 through 85-7-2018, and when ~~so~~ confirmed, the order overruling ~~such~~ the objection and confirming the order of the board determining the irrigable area of each tract of land and apportioning the cost of the improvement ~~thereto~~ to each tract shall become final, binding, and conclusive upon the landowner and upon the district, unless appealed from as provided in 85-7-2018."

Section 32. Section 85-7-2116, MCA, is amended to read:

"**85-7-2116. Restrictions on reduction of taxable acreage.** Whenever the irrigable area of the lands in any irrigation district or subdistrict has been determined and confirmed, no owner or holder of title or evidence of title to lands in the district or subdistrict, during the period

when any bonds ~~thereafter--authorized~~ are issued and outstanding, may have the taxable acreage of his lands fixed or adjudicated in the manner provided by 85-7-1841 through 85-7-1845 in ~~such~~ a manner or to ~~such~~ an extent as to reduce the acreage subject to the payment of the bonds or interest ~~thereon~~ or in ~~such~~ a manner as to affect the security of the bonds or interest ~~thereon~~ on the bonds."

NEW SECTION. **Section 33.** **Codification instruction.** [Sections 1 through 7] are intended to be codified as an integral part of Title 85, chapter 7, and the provisions of Title 85, chapter 7, apply to [sections 1 through 7].

NEW SECTION. **Section 34.** **Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 35.** **Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid application.

NEW SECTION. **Section 36.** **Effective date.** [This act] is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB650, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB650 would generally revise and clarify the laws relating to irrigation districts, including new authority for a board of commissioners of an irrigation district to create a subdistrict.

ASSUMPTIONS:

1. There is no fiscal impact to the Dept. of Natural Resources and Conservation or the Dept. of Commerce.
2. There is no identifiable state fiscal impact.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

There is no direct fiscal impact to the counties assuming the purchase of irrigation district indebtedness is discretionary and that future assessments are pledged against the indebtedness.

Ray Shackleford DATE 2/18/89
RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE
CHUCK SWYSGOOD, PRIMARY SPONSOR

Fiscal Note for HB650, as introduced

HB 650

Form CS-32
Rev. 1985

STATUS SHEET

51st LEGISLATIVE SESSION

Agriculture, Livestock and Irrigation COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CONSIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CONCURRED IN DATE	BE NOT CONCURRED IN DATE	BE CONCURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
HB398	1/25	2/06	2/06	2/06							
HB477	1/28	2/10	2/15			2/15					
HB 109	1/11	No action	no sponsor								
HB965	1/27	2/13	2/13			2/13					
HB190	re-entered 1/25	2/10	2/10	2/10							
HB509	2/01	2/13	2/13			2/13					
HB516	2/02	2/13	2/13			2/13					
HB616	2/09	2/17	2/17			2/17					
HB650	2/13	2/15	2/15			2/15					
HB658	2/13	2/15	2/15			2/15					
HB675	2/13	2/17	2/17			2/17					
HB701	2/15	2/17	2/17			2/17					
HB769	2/15	2/15	2/15			2/15					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By Chairman Bob Bachini, on February 15th 1989, at 2:55 p.m.

ROLL CALL

Members Present: All present with exception of:

Members Excused: Rep. Bert Guthrie

Members Absent: none

Staff Present: Ms. Connie Erickson, Legislative Council and Ms. Maureen Cleary, Committee Secretary

Announcements/Discussion: none

HEARING ON HOUSE JOINT RESOLUTION 23

Presentation and Opening Statement by Sponsor:

REP. JOHN COBB: House District #42. The focus of this bill is on page 4, lines 14 through 23 (Read text). Basically what we are trying to do is put pressure on the Forest Service to make them do a better job of managing fires.

Testifying Proponents and Who They Represent:

Mr. Dave McClure/ President, MT. Farm Bureau, Lewistown

Mr. Jerry Jack/ MT. Stockgrowers

Ms. Kay Norenberg/ Women Involved in Farm Economics, Helena

Ms. Jo Brunner/ MT. Water Resources Association, Helena

Ms. Carol Moser/ MT. Cattle Women, Helena

Rep. Marian Hanson/ House District #100

Proponent Testimony:

Mr. McClure: Important to keep pressure on the U. S. Forest Service in order to resolve the problem of poor fire management practices.

Mr. Jack: (See Exhibit #1)

legislature did not give enough specifics to the Science and Tech Board on how to actually structure the program. The loan agreement provisions must be in the statute. The limitations have to be set by the Legislature. We decided to protect the integrity of the program and make certain that this statute met the Supreme Courts test and criteria. This bill provides rule making to the Council, which is critical in terms of procedures for reviewing applications and the process they will use. This statute contains more legislative direction than most. If not all other statues previously passed by the Legislature.

Closing by Sponsor:

REP. SWYSGOOD: Urged the Committee's support.

DISPOSITION OF HOUSE BILL 658

Motion: Rep. Hanson: made the motion "do pass"

Discussion: none

Amendments, Discussion, and Votes: Rep. Linda Nelson: made the motion "do pass" on amendments. A vote was cast and the amendments passed. (See Standing Committee Report)

Recommendation and Vote: THEREFORE, THE COMMITTEE RECOMMENDS THIS BILL "DO PASS AS AMENDED".

HEARING ON HOUSE BILL 650

Presentation and Opening Statement by Sponsor:

REP. CHUCK SWYSGOOD: House District #73. This bill is complex but simple in it's intent. I will provide amendments for your review (See Exhibit #8).

Testifying Proponents and Who They Represent:

Mr. Carl Davis/ lawyer, Dillon, Clark Canyon Water Supply Irrigation District

Ms. Jo Brunner/ MT. Water Resources Council

Mr. Robert Ellis/ Helena Irrigation District

Proponent Testimony:

Mr. Davis: I support the intent of this bill.

Ms. Brunner: (See Exhibit #8)

Mr. Ellis: We would appreciate favorable consideration.

Testifying Opponents and Who They Represent:

none

Opponent Testimony:

none

Questions from the Committee:

none

Closing by Sponsor:

Rep. Swysgood: Briefly closed to the Committee reiterating his opening statements.

DISPOSITION OF HOUSE BILL 650

Motion: Rep. Ream: made the motion "do pass"

Discussion: none

Amendments, Discussion, and Votes: Rep. Ellison: made the motion "do pass on amendments". A vote was cast and the amendments passed. (See Standing Committee Report)

Recommendation and Vote: THEREFORE, THE COMMITTEE RECOMMENDS THIS BILL "DO PASS AS AMENDED".

DISPOSITION OF HOUSE BILL 477

Motion: Rep. DeMars: made the motion for a "do pass"

Discussion: Ms. Erickson: Clarified conflicts between HB477 and HB165 and offered amendments (See Exhibit #8). The concern is increasing fees in one bill and decreasing fees in the other. If both bills were to pass, what would happen? You would have conflicting statutes. What we would need to do is place a "coordination clause" on House Bill 477. If both bills pass, the coordination clause would take care of it.

Amendments, Discussion, and Votes: Rep. DeMars: made the motion "do pass on amendments". A vote was cast and the amendments passed. (See Standing Committee Report)

Recommendation and Vote: THEREFORE, THE COMMITTEE RECOMMENDS THIS BILL "DO PASS AS AMENDED".

DAILY ROLL CALL

AGRICULTURE COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date February 15th

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Bachini, Chairman	✓		
Rep. Francis Koehnke, Vice Ch.	✓		
Rep. Gene DeMars	✓		
Rep. Jerry Driscoll	✓		
Rep. Jim Elliot	✓		
Rep. Linda Nelson	✓		
Rep. Bob Ream	✓		
Rep. Don Steppler	✓		
Rep. Vernon Westlake	✓		
Rep. Duane Compton	✓		
Rep. Orval Ellison	✓		
Rep. Bert Guthrie			
Rep. Marian Hanson	✓		
Rep. Harriet Hayne	✓		
Rep. Betty Lou Kasten	✓		
Rep. Vernon Keller	✓		
Rep. John Patterson	✓		

2-16-89
7:15 am

STANDING COMMITTEE REPORT

February 16, 1989

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that HOUSE BILL 650 (first reading copy -- white) do pass as amended .

Signed: _____
Bob Bachini, Chairman

And, that such amendments read:

1. Page 16, line 5.
Following: "18.75%"
Strike: "limitation"
Insert: "limitations"
Following: "of"
Strike: "subsection (1)"
Insert: "subsections (2) and (3)"

2. Page 16, line 9.
Following: "The"
Strike: "limitation"
Insert: "limitations"
Following: "of"
Strike: "subsection (1) does"
Insert: "subsections (1) through (3) do"

3. Page 16, line 12.
Following: "The"
Strike: "limitation"
Insert: "limitations"
Following: "of"
Strike: "subsection (1) does"
Insert: "subsections (1) through (3) do"

4. Page 16, line 20.
Following: "The"
Strike: "limitation"
Insert: "limitations"
Following: "of"
Strike: "subsection (1) does"
Insert: "subsections (1) through (3) do"

EXHIBIT # 8
DATE 2/15/89
HB 650

_____HB650_____Rep. Swysgood_____Feb. 15, 1989_____

_____Montana Water Resources Association_____

_____Jo Brunner, Executive Secretary_____

The Montana Water Resources Association supports Representative Swysgoods HB650.

A great many of our members are Irrigation Districts. Last session the Association sponsored a bill that allowed our districts to offer for sale to the State of Montana, bonds for financing improvements to their entities.

Several of our irrigation district members are interested in creating a subdistrict within their district. Since much of the provisions in this bill are actual reflections of the laws concerning bonding and indebtedness procedure by Irrigation Districts, they are familar to them, and in agreement with the safeguards concerning participation by the landowners, the bonding procedures, the indebtness incurred, repayment and other provisions. The methods provided within this bill are in accordance with their understanding of the necessities to accomplish the purpose.

We ask a do pass.

EXHIBIT #8a
DATE 2/15/89
HB 650

Amendments to House Bill No. 650
First Reading Copy

Requested by Representative Swysgood
For the House Committee on Agriculture

February 14, 1989

1. Page 16, line 5.
Following: "18.75%"
Strike: "limitation"
Insert: "limitations"
Following: "of"
Strike: "subsection (1)"
Insert: "subsections (2) and (3)"

2. Page 16, line 9.
Following: "The"
Strike: "limitation"
Insert: "limitations"
Following: "of"
Strike: "subsection (1) does"
Insert: "subsections (1) through (3) do"

3. Page 16, line 12.
Following: "The"
Strike: "limitation"
Insert: "limitations"
Following: "of"
Strike: "subsection (1) does"
Insert: "subsections (1) through (3) do"

4. Page 16, line 20.
Following: "The"
Strike: "limitation"
Insert: "limitations"
Following: "of"
Strike: "subsection (1) does"
Insert: "subsections (1) through (3) do"

VISITORS' REGISTER

Agriculture COMMITTEE

BILL NO. HB 650 DATE Feb. 15th

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
R. A. Ellis	Helena Valley MWRA	✓	
Jo Brunner	MWRA	—	
Carol Mosher	Mt. Stockgrowers Assn	✓	
Jerry Jack	MT Stockgrowers	✓	
Marvin Barber	D. P. A.	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

AGRICULTURE, LIVESTOCK & IRRIGATION COMMITTEE

DATE 2/15/89 BILL NO. HB650 NUMBER

NAME	AYE	NAY
BOB BACHINI, CHAIRMAN	✓	
FRANCIS KOEHNKE, VICE CHAIRMAN	✓	
GENE DE MARS	✓	
JERRY DRISCOLL	✓	
JIM ELLIOT	✓	
LINDA NELSON	✓	
BOB REAM	✓	
DON STEPPLER	✓	
VERNON WESTLAKE	✓	
DUANE COMPTON	✓	
ORVAL ELLISON	✓	
BERT GUTHRIE	✓	
MARIAN HANSON	✓	
HARRIET HAYNE	✓	
BETTY LOU KASTEN	✓	
VERNON KELLER	✓	
JOHN PATTERSON	✓	
TALLY	16	

Maureen Cleary
~~Mary Lou Schmitz~~
Secretary

BOB BACHINI, Chairman
Chairman

MOTION: rep. Ream "do pass" 16

ellison "amendments" (16)

DO PASS AS AMENDED

Form CS-31
Rev. 1985

CHAIRMAN--TOM BECK
SECRETARY-JAELENE JOHNSON
COMMITTEE--(S) AGRICULTURE
OFFICE--ROOM 439
NORMAL SCHEDULE==> SITE: ROOM 413/415
DAYS: M,W,F
TIME: 1:00 P.M.

NOTE: BILL WILL BE LISTED TWICE IF REREFERRED BACK TO THE SAME COMMITTEE

BILL		REFER DATE	LATEST DATE/ACTION ON BILL	
			SPONSOR: GRADY, ED	TITLE-AUTHORIZE PERMIT SYSTEM FOR TRANSPORTATION OF SHEEP
HB 461		02/08	03/16--(S) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
			SPONSOR: REAM, BOB	TITLE-ENCOURAGES WATER DEVELOPMENT PROJECTS OR PROGRAMS THAT IMPROVE EFFICIENCY
HB 462		03/21	04/24--TABLED IN COMMITTEE	
			SPONSOR: HARPER, HAL	TITLE-PROVIDES FOR COMPREHENSIVE STATE DROUGHT RESPONSE AND DROUGHT COMMISSION
HB 463		03/21	04/24--(H) CHAPTER NUMBER	EFFECTIVE DATE: 04/24/89
			SPONSOR: THOFT, BOB	TITLE-AMENDS WATER COMMISSIONER LAWS TO ALLOW MEDIATION IN A BASIN & FEES TO DNRC
HB 465		02/28	04/01--(H) CHAPTER NUMBER	EFFECTIVE DATE: 04/01/89
			SPONSOR: IVERSON, DENNIS	TITLE-REVISE LIVESTOCK MARKETING LAW
HB 477	R	02/28	04/04--(H) CHAPTER NUMBER	EFFECTIVE DATE: 07/01/89
			SPONSOR: GRADY, ED	TITLE-REVISE FUNDING FOR NOXIOUS WEED MANAGEMENT TRUST FUND
HB 516		02/28	04/01--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
			SPONSOR: HANSON, MARIAN	TITLE-RESPONSIBILITY FOR MAINTAINING FENCES
HB 542		02/28	04/11--(H) CHAPTER NUMBER	EFFECTIVE DATE: 04/11/89
			SPONSOR: GUTHRIE, BERT	TITLE-CHANGES BURDEN OF PROOF FOR CERTAIN WATER PERMIT CRITERIA
HB 584		02/17	04/24--TABLED IN COMMITTEE	
			SPONSOR: REAM, BOB	TITLE-ALLOWS OBJECTIONS BASED ON WATER QUALITY CONCERNS TO A WATER USE PERMIT
HB 616		02/28	04/12--(S) SPECIAL ACTION	TO BE FILED WITH SECRETARY OF STATE
			SPONSOR: DEMARS, GENE	TITLE-INCREASE HAIL INSURANCE COVERAGE
HB 650		02/28	04/04--(H) CHAPTER NUMBER	EFFECTIVE DATE: 04/04/89
			SPONSOR: SWYSGOOD, CHARLES	TITLE-AUTHORIZES IRRIGATION DISTRICT SUBDISTRICTS
HB 655		02/28	04/12--(H) CHAPTER NUMBER	EFFECTIVE DATE: 04/12/89
			SPONSOR: HARPER, HAL	TITLE-SMITH RIVER MANAGEMENT ACT
HB 658		03/01	03/23--(H) CHAPTER NUMBER	EFFECTIVE DATE: 03/23/89
			SPONSOR: SWYSGOOD, CHARLES	TITLE-REVISE MONTANA GROWTH THROUGH AGRICULTURE ACT
HB 675		02/28	03/20--(H) CHAPTER NUMBER	EFFECTIVE DATE: 03/20/89
			SPONSOR: SPAETH, GARY	TITLE-REVISE APICULTURE LAWS
HB 701		02/28	04/14--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
			SPONSOR: SWYSGOOD, CHARLES	TITLE-REQUIRE CENTRAL FILING OF AGRICULTURAL LIENS WITH SECRETARY OF STATE
HB 707	A	02/28	04/28--(H) TRANSMITTED TO GOVERNOR	
			SPONSOR: IVERSON, DENNIS	TITLE-ALLOW LEASING FOR INSTREAM PURPOSES BY FISH, WILDLIFE AND PARKS
HB 754	R	03/31	04/21--(H) CHAPTER NUMBER	EFFECTIVE DATE: 07/01/89
			SPONSOR: HARPER, HAL	TITLE-ESTABLISHING RIVER RESTORATION PROGRAM THRU FISHING LICENSE FEE INCREASE
HJ 22		02/17	03/15--(H) FILED WITH SECRETARY OF STATE	
			SPONSOR: REAM, BOB	TITLE-ASK CONGRESS TO FUND REHABILITATION OF IRRIGATION PROJECTS
HJ 31		04/03	04/19--(H) FILED WITH SECRETARY OF STATE	
			SPONSOR: WESTLAKE, VERNON	TITLE-RESOLUTION RECOGNIZING STATE COOPERATIVE EXTENSION SERVICES

irrigate on somebody else's land. Why do you have to have the land owners permission? What was the basis of this decision?" Representative O'Keefe, "As the statutes now administer, any appropriator may legally withdraw water from a well that is on another persons property. A person may apply for permitted increase through the place of use through the DNRC without the land owners approval." Representative O'Keefe explained that ground water as well as surface water would be covered under the section.

Senator Bengtson - "Does this bill addressed what we had previous to this?" Ted Doney indicated that Senator Bengtson's bill was a `point of diversion' bill and this bill was a `place of use' bill.

Closing by Sponsor: Representative O'Keefe closed.

HEARING ON HOUSE BILL 650

Presentation and Opening Statement by Sponsor:
Representative Swysgood, House District 73, stated HB 650 created a sub-district within an irrigation district. See exhibit 4 for further testimony.

List of Testifying Proponents and What Group They Represent:

Jo Brunner representing the Montana Resources Association

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Jo Brunner - See exhibit 3.

Questions From Committee Members: Senator Aklestad - "Before they can do this, do they have to get authority from the original district?" Representative Swysgood - "Yes."

Senator Aklestad - "How do they get that authority from the district?" Representative Swysgood - "Section one allows a creation of this district with at least 60% of the number acreage as it's current law. Then section two requires public notice of a drain on the proposed sub-lease. Section three requires and sets guidelines for the public on the proposed districts. Section four specifies a criteria for the board of commissioners for

the irrigation district to use in creating a sub-district."

Senator Beck - "On line 11 page 2, the petition must be addressed to and filed with the board of commissioners. That's the board of commissioners of the water district?" Representative Swysgood - "It's the board of commissioners of the irrigation district."

Closing by Sponsor: Representative Swysgood closes.

HEARING ON HOUSE BILL 616

Presentation and Opening Statement by Sponsor:
Representative DeMars, House District 29, stated HB 616 was to increase the coverage on dry land from $24 to $32 an acreage. Also this bill the coverage on irrigated land from $48 to $56 an acre. See exhibit 24 for further testimony.

List of Testifying Proponents and What Group They Represent:

Representative John Patterson, House District 97
Representative Roger DeBruycker, House District 13
Ron de Yong representing Montana Farmers Union
Terry Minow representing her parents who are farmers/ranchers
Alvin Zinne representing himself
Larry Johnson representing the Montana Grain Growers
Kay Norenberg representing WIFE
Gary Dyer representing himself from Brady, Montana
Robert Taylor representing himself from Denton, Montana
Merle Mullok representing himself from Bloomfield, Montana
Charles Lee representing himself from Denton, Montana
Hugo Tureck representing himself from Coffee Creek, Montana
Richard Wilson representing himself from Denton, Montana
Ben Campbell representing himself from Coffee Creek, Montana
Mark Rasmussen representing the Montana Grain Growers
Alfred Daens representing himself from Denton, Montana
Rod Boling representing himself from Denton, Montana

*Written letters submitted as testimony:

Tammy Valentine from Moccasin, Montana
Donald and Pauline Taylor from Lewistown, Montana
Grace and Russell Hodge from Moccasin, Montana

ROLL CALL

AGRICULTURE COMMITTEE

DATE 3/10/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR HUBERT ABRAMS	✓		
SENATOR GARY AKLESTAD	✓		
SENATOR ESTHER BENGTSON	✓		
SENATOR GERRY DEVLIN	✓		
SENATOR JACK GALT	✓		
SENATOR GREG JERGESON	✓		
SENATOR GENE THAYER	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM BECK	✓		

Each day attach to minutes.

SENATE AGRICULTURE
EXHIBIT NO. 1
DATE 3/10/89
BILL NO. HB 650, 616 413, 399

BILL SUMMARY-SENATE AGRICULTURE COMMITTEE
MARCH 10, 1989
PREPARED BY DOUG STERNBERG, COMMITTEE STAFF

HB 399 Section 1: requires a possessory property interest, as well as exclusive property rights in groundwater development works, as part of the exception to groundwater appropriation

Section 2: requires proof of unappropriated water at the proposed point of diversion as a part of permit issuance criteria; includes "reasonable availability" in amount criteria; requires proof of a possessory interest or written consent of the person with a possessory interest as a part of permit issuance criteria

Section 3: requires an applicant's proof of a possessory property interest, or the written consent of the person with a possessory property interest, in order for approval of a change in appropriation right (see p. 11, lines 17-20 for amendment)

Section 4: deletes "decree" requirement from law mandating suitable headgates; deletes "registered mail" requirement from notice provisions; makes minor changes in grammar

Section 5: extends present agency rulemaking authority

Section 6: provides immediate effective date

HB 413 Section 1: makes discretionary rather than mandatory ("shall" to "may", p. 2, line 21) appointment of a water commissioner upon application by both the DNRC and one or more holders of valid water rights; allows costs to DNRC if it applies for appointment of a water commissioner

Section 2: provides an immediate effective date

HB 616 Section 1: raises from $24 to $32 the amount of insurance that may be written on each acre of grain on nonirrigated land and from $48 to $56 per acre on irrigated land

Section 2: raises from $24 to $32 the amount payable for loss per acre of grain on nonirrigated land and from $48 to $56 per acre of irrigated land

Section 3: extends present agency rulemaking authority

Section 4: provides an immediate effective date

HB 650 Section 1: allows an irrigation district board of commissioners to establish by petition one or more subdistricts; outlines information required in the petition

Section 2: establishes notice requirements for a hearing on the petition

Section 3: provides hearing requirements

Section 4: allows creation of a subdistrict following hearing; establishes a procedure for petition review

Section 5: provides for alteration of subdistrict acreage and determination of taxable area in the same manner as for irrigation districts

Section 6: provides for dissolution of subdistricts in the same manner as for irrigation districts

Section 7: allows a district to sell bonds to government entities by negotiation and without public advertisement or solicitation of bids

Ex. #1
3-10-89

Section 8: allows the board of commissioners to acquire lands and property for the operation of a subdistrict; requires a majority of subdistrict landholders to approve property acquisition

Section 9: extends board authority to furnish sufficient water to subdistricts

Section 10: extends board authority over property of subdistricts

Section 11: allows board disposition of property that substantially benefits a subdistrict

Section 12: provides for equitable apportionment of water to a subdistrict; allows board disposal of surplus subdistrict water

Section 13: extends definition of "distribution system" to subdistricts

Section 14: limits indebtedness incurred on behalf of a subdistrict

Section 15: allows issuance of negotiable fully registered bonds or negotiable coupon bonds to establish a reserve for payment of principle and interest on irrigation district bonds

Section 16: establishes petition requirements for bonds issued on behalf of subdistricts

Section 17: establishes bond issuance procedures on subdistrict bonds

Section 18: provides refunding bond requirements on subdistrict bonds

Section 19: extends bond lien provisions to subdistrict bonds; extends lien applicability from 8 years after maturity to time of discharge of obligations

Section 20: revises bond sale notice provisions to include exception for bonds sold under sec. 7

Section 21: extends tax and assessment provisions for paying bonds and interest to subdistrict bonds

Section 22: includes added subdistrict lands in land obligated for payment of bonded indebtedness

Section 23: includes all subdistrict lands in payment of charges for works and federal and state contracts

Section 24: establishes procedure for subdistrict levies

Section 25: includes subdistricts in procedure for determining irrigable area

Section 26: includes subdistrict land in tax liens

Section 27: requires preparation of list of subdistrict land

Section 28: includes nonirrigable subdistrict land as nontaxable

Section 29: includes subdistrict landholders in petition process for judicial review of board actions

Section 30: extends to subdistricts burden of costs upon issuance of bonds

Section 31: includes subdistrict landowners in objection process when a determination is made of irrigable area or tax rate per acre

Section 32: includes subdistrict land in restrictions on reduction of taxable acreage

Ex. #1
3-10-89

Section 33: codifies new secs. 1-7 in irrigation district law

Section 34: standard saving clause
Section 35: standard severability clause
Section 36: provides immediate effective date

SENATE AGRICULTURE
EXHIBIT NO. 3
DATE 3/10/89
BILL NO. HB650

HB650 Rep. Swysgood Mar. 10, 1989

Montana Water Resources Association

Jo Brunner, Executive Secretary

The Montana Water Resources Association supports Representative Swysgoods HB650.

A great many of our members are Irrigation Districts. Last session the Association sponsored a bill that allowed our districts to offer for sale to the State of Montana, bonds for financing improvements to their entities.

Several of our irrigation district members are interested in creating a subdistrict within their district. Since much of the provisions in this bill are actual reflections of the laws concerning bonding and indebtedness procedure by Irrigation Districts, they are familar to them, and in agreement with the safeguards concerning participation by the landowners, the bonding procedures, the indebtness incurred, repayment and other provisions. The methods provided within this bill are in accordance with their understanding of the necessities to accomplish the purpose.

We ask a do pass.

Dorsey Whitney Mines
Bond
Mac Dan Ellingson - Boyce

EXHIBIT NO. 4
DATE 3/10/89
BILL NO. HB 650

SUMMARY OF LC 143
(Creation of a subdistrict within an irrigation district)

From time to time it is advantageous to make major improvements such as installation of a gravity irrigation system in an irrigation district. However, there are instances when only a specific area of an irrigation district will be benefitted. In these instances, it is appropriate that the cost of making such improvements be borne by only those individuals benefitting from the improvements and not the entire district.

This legislation expands and clarifies existing statutory provisions that an irrigation district may form a subdistrict, similar in concept to a special improvement district within a municipality. Upon petition, the Board of an irrigation district may form a subdistrict which has the same authorities and limitations as the district in matters related to construction procedures and authorities; financing alternatives and procedures; as well as collection and taxation authorities. These subdistricts are usually created for the implementation of a project and its members are financially responsible for the project. ~~However, the subdistrict is administered under the authority of the district and in the final analysis, the responsibility lies with the full district.~~ Again, this is analogous to the municipalities' responsibility with a special improvement district.

This bill also provides for the establishment of a reserve for the payment of irrigation district bonds as would reasonably be required to market the bonds, and clarifies that bonds purchased by the State or Federal Government is not included in the debt limitations of a district. These provisions apply to bonds sold for a subdistrict or for the entire district.

Senator Bengtson-"Whose amendment is this?"

Senator Beck-"The Department of Agriculture."

Amendments and Votes: Senator Thayer moved the amendments to HB 701 (See exhibit 5). The motion passed.

Senator Galt moved the amendments (HB070101.ADS) that concerned the hail board. The motion carried with Senator Thayer and Senator Aklestad voting no.

Recommendation and Vote: Senator Bengtson moved HB 701 BE CONCURRED IN AS AMENDED. The motion passed unanimously. Senator Thayer was assigned to carry the bill.

DISPOSITION OF HOUSE BILL 650

Discussion: Doug Sternberg explained the question Senator Jergeson had on the funding, on page 15, "setting up the limitations on what debt could be incurred on behalf of the subdistricts. He requested whether this is cumulative, whether there is 18.75% for the district and then additional 18.75% for subdistrict. Look at the language of subsection (2) 'an irrigation district may not become indebted in any manner for any purpose for any one year in an amount exceeding 18.75% of the assessed valuation of the district, except as provided in subsection (4)'. That appears to me to be the exception to the funding that would be allowed to a district."

Amendments and Votes: None

Recommendation and Vote: Senator Bengtson moved HB 650 BE CONCURRED IN; the motion was second by Senator Aklestad. The motion carried unanimously. Senator Bengtson was assigned to carry the bill.

DISPOSITION OF HOUSE BILL 616

Discussion: Senator Jergeson explained some statistics by using some visual techniques. "I think for the industry to blame the state insurance program for a loss of their business is absolute nonsense."

Senator Devlin-"On this wheat and barley crop total values, where did you get those figures?"

Senator Jergeson-"The Montana Department of Agriculture got it for me."

SENATE STANDING COMMITTEE REPORT

March 17, 1989

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation, having had under consideration HB 650 (third reading copy -- blue), respectfully report that HB 650 be concurred in.

Sponsor: Swysgood (Bengtson)

BE CONCURRED IN

Signed: Thomas A. Beck

Thomas A. Beck, Chairman

3/18/89

scrhb650.317